



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 144-99

7 January 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 30 August 1974 at age 18. The record shows that prior to being recommended for an administrative discharge, you received nonjudicial punishment on three occasions and were convicted by a special court-martial. Your offenses were possession of a smoke bomb in the company barracks, interfering with the military police, disorderly conduct, consumption of alcohol in the company area, having an improper haircut, and a uniform violation. In addition, you were counseled on several occasions concerning your performance and conduct.

On 2 November 1976 you were notified that you were being recommended for an administrative discharge by reason of misconduct. At that time you elected to have your case heard by an administrative discharge board. On 30 November 1976 and 21 January 1977 you received nonjudicial punishments for four instances of disobedience and communication of a threat. An administrative discharge board met on 31 January 1977 and recommended that you be discharged for misconduct with a discharge under other than honorable conditions. Before the discharge authority could act on the recommendation for

discharge, you received a sixth nonjudicial punishment for possession of marijuana. On 11 February 1977 the discharge authority approved the recommendation of the administrative discharge board and directed discharge under other than honorable conditions. You were so discharged on 10 March 1977.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education and your contention, in effect, that the discharge was too severe given the minor nature of your offenses and your initial period of good service. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given the frequency of your misconduct. The Board especially noted the misconduct which occurred after you were recommended for discharge, which indicated to the Board that you had no desire to improve your behavior. The Board also noted that some of your offenses were alcohol related. However, regulations state that alcohol abuse is not an excuse for misconduct and disciplinary action is appropriate after alcohol related misconduct. In addition, those regulations do not prohibit processing for an administrative discharge of individuals found to be alcohol abusers. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director